

STATE OF IOWA  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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F. SCOTT DEAVER,	)	
	)	
Appellant	)	
	)	
vs.	)	87-MA-03
	)	
IOWA DEPARTMENT OF GENERAL SERVICES,	)	ADJUDICATOR'S DECISION
	)	
Appellee	)	

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Appearances

For the Department of General Services

Ann Marie Brick, Assistant Attorney General  
Beverly J. Abels, former Personnel Manager for the Dept. of General Services  
Jerry Gamble, Administrator of Administrative Services Division  
Kathleen Williams, Administrator of Records Management Division

For F. Scott Deaver

John C. Conger, Attorney  
Wayne Gaskill, former supervisor in Micrographics Division of General Services  
Sandra Dougherty, union steward  
F. Scott Deaver, Appellant

I. JURISDICTION

On March 28, 1986, F. Scott Deaver received a three-day suspension for insubordination. Deaver appealed the suspension to Jack Walters, Director of the Department of General Services, who reduced the suspension to one day. The parties agree that the matter is properly before the Public Employment Relations Board. A hearing was held before me on August 27, 1986 in Des Moines, Iowa.

II. ISSUES

The issues in this case are whether F. Scott Deaver was insubordinate, and, if so, whether the Department has just cause to suspend him for one day.

### III. FACTS

F. Scott Deaver was hired as a supervisor in the Micrographics Division of the Department of General Services in September of 1985. Deaver was recruited for the position when no suitable candidates were found in a several month search. Deaver's job was an entry level professional position which involved the supervision of about ten microform operators. The Department conducted a lengthy search for this position, as the area had been problematic in the past. The problems apparently result from the fact that the microform operators work in a high production, factory-type atmosphere, and perform boring, repetitive work. Deaver was interviewed twice by Kathleen Williams, the Administrator of Records Management Division of the Department prior to his being hired. Deaver was informed during the hiring process that the Department had had problems with some of the employees.

Deaver was a probationary employee for the first six months of his employment. During this time he received training on the equipment used in the microform division as well as training as a supervisor. Although Deaver had some previous experience as a supervisor, he was unfamiliar with the State's merit rules, departmental rules and union contracts.

One employee in the microform division had caused many problems. At the time Deaver was hired Diana Gorsline was receiving five day suspensions on the progressive discipline scale. Deaver had to discipline her several times, and expressed frustration over Gorsline, and the amount of time the progressive discipline system took, to Williams and Beverly Abels, then personnel manager for General Services. Abels and Williams explained the importance of following the progressive discipline plan.

In December or January of 1986, Deaver went to Abels and told her that he was having problems with his supervisor, Kathleen Williams, and the employees

he supervised, and was thinking about resigning. Abels testified that it was not unusual for a supervisory employee to feel frustrated and overwhelmed at that point in employment. Abels tried to calm Deaver, and scheduled a meeting with Williams and Deaver in January of 1986. Abels described the meeting as very acrimonious, saying that Deaver was very angry at Williams. Deaver expressed the opinion that he was not being given enough responsibility and authority. Abels said that Deaver was assured that she and Williams were working on the problems with Diana Gorsline, and that he should not take any unilateral action regarding Gorsline.

In March, Abels was approached by Gorsline's union steward, Sandra Dougherty. Dougherty stated that Gorsline wished leave to receive counseling, but that Gorsline preferred not to request the leave from Deaver. To accommodate Gorsline's concerns, and to continue monitoring Gorsline's performance for potential termination, Abels and Williams agreed on a plan. Gorsline would submit leave requests to Deaver who would inform Williams. Williams would be told when Gorsline was seeing the counselor, and would then approve valid leave requests.

Abels and Williams testified that Deaver agreed to this plan. Deaver testified that he received a directive not to take unilateral action regarding, disciplining Gorsline, but that he was never told not to approve Gorsline's leave requests without Williams' approval. Whether Deaver was given these instructions regarding Gorsline is critical to this case because he was suspended for unilaterally approving a leave request for Gorsline on March 27, 1986.

On March 27, 1986, Gorsline and Dougherty approached Deaver with a request for leave of absence from March 31 to April 14. The request was accompanied by a letter from a psychiatric consultant which stated that the request was being made because of Gorsline's "inability to function on the job." In Deaver's

judgment, Gorsline was not able to perform her job duties on March 27, and after discussing the matter with Gorsline and Dougherty, all agreed that the leave would be extended, and would begin on March 27. Deaver also got a statement signed by himself, Gorsline and Dougherty, which provided that Gorsline's next scheduled performance evaluation would be completed when Gorsline returned rather than during her leave.

Deaver telephoned both Abels and Williams on March 27. By his own admission, he did not attempt to get approval for the leave request from either person. Deaver claims that he never got a directive not to take unilateral action on Gorsline's leave requests and that the contract provides the employer very little discretion in granting these requests.

Based on the testimony of Abels, Williams, and Deaver, and the exhibits received, I find that Deaver was given a directive not to take any unilateral action regarding Diana Gorsline. First, no motive was attributed to or shown for Abels or Williams lying about this fact. On the other hand, Deaver has an interest in having his suspension revoked. In addition, Deaver's arguments supporting the non-existence of the directive: that the directive is not in writing, that the union steward did not know about the directive and that the contract mandated that the leave request be approved do not result in a finding that the directive was not given. Though it would certainly have been helpful for all involved had the directive been put in writing, the fact that it was not written does not prove that it was not given. Further, no one had reason to inform Dougherty, the union steward, of this plan, especially in light of the fact that the Department planned to terminate Gorsline's employment. Whether the contract gave the employer any flexibility in granting the leave is not the issue. Certainly the contract did not preclude Deaver from getting Williams' approval, especially as the leave request was presented two days before it was to begin. In addition, the directive would have been reasonable in light of the

Department's concern with Gorsline's termination being accomplished properly, Deaver's lack of experience with the merit rules and union contract, and his expressed frustration over Gorsline and his concern that he was not being given enough responsibility, that he was "chomping at the bit." Further Deaver admitted that he had received instructions not to take unilateral disciplinary actions with regard to Gorsline.

#### IV. CONCLUSIONS OF LAW

Having determined that Deaver had been told not to take unilateral action with regard to Gorsline, specifically not to grant leave requests, I conclude that he was insubordinate in not following his supervisor's directive.

The merit rules provide that "[i]n addition to less severe progressive discipline measures, any employee is subject to suspension... [for] insubordination." 570 IOWA ADMIN. CODE §11.2 (19A) (1985). Disobeying a supervisor's directive is clearly insubordination, and the Department had the discretion to suspend Deaver for disobeying Williams' directive. Further, I do not find the one day suspension excessive. The division supervised by Deaver had been problematic in the past, and Williams needed a supervisor she could rely on, not one who would ignore her instructions. Deaver knew of the concerns regarding the division and Gorsline, having discussed them with Williams and Abels on several occasions. Deaver had been informed of the complexities of the State system and merit rules, and chose to ignore his supervisor's order. Therefore, the Department had just cause to suspend Deaver for one day.

#### V. AWARD

The appeal is dismissed.

Dated at Des Moines, Iowa this 23rd day of September, 1986.

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AMY J. MILLS, ADJUDICATOR